

FARRELL-ARGAST ELECTRIC CO.

OCTOBER 25, 1943.—Ordered to be printed

Mr. CAPPER, from the Committee on Claims, submitted the following

REPORT

[To accompany H. R. 560]

The Committee on Claims, to whom was referred the bill (H. R. 560) for the relief of the Farrell-Argast Electric Co., having considered the same, report favorably thereon with the recommendation that the bill do pass without amendment.

The facts are fully set forth in House Report No. 414, Seventy-eighth Congress, first session, which is appended hereto and made a part of this report.

[H. Rept. No. 414, 78th Cong., 1st sess.]

The Committee on Claims, to whom was referred the bill (H. R. 560) for the relief of Farrell-Argast Electric Co., having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

The purpose of the proposed legislation is to pay to the Farrell-Argast Electric Co., Indianapolis, Ind., the sum of \$402.68, as additional payment for three transformers delivered to the War Department under a bid which through error resulted in the Government receiving three transformers at the price of one transformer.

STATEMENT OF FACTS

Pursuant to invitation for bids sent to several contractors for furnishing electrical supplies required by the repairs and utilities office, Fort Hayes, Columbus, Ohio, the Farrell-Argast Electric Co. submitted a bid of \$67.113 for supplying three transformers under item 60, or a total of \$201.34. It appears that the price of \$201.34 quoted by the manufacturer to the Farrell-Argast Electric Co. was the unit price for one transformer instead of the lot price bid for the three transformers. Upon opening the bids, prices on item 60 for each transformer were \$213.84, \$213.84, \$209.87, and \$67.113, the latter figure being the amount bid by the Farrell-Argast Electric Co. It will be noted that if payment is made of the additional amount of \$402.68, representing the difference between the bid price of \$201.34 for three transformers and the corrected price of \$604.02 at \$201.34 each, the Farrell-Argast Electric Co. would still be low bidder on this item.

Since the unit price of the claimant of \$67.113 is disproportionate to the other unit prices submitted, it is obvious that a bona fide error in bid was made. This is the view taken by the War Department in its report, in which it further states that it has no objection to enactment of the bill.

Your committee feel that the relief asked by the claimant is just and fair, and the denial thereof would work an undue hardship upon and result in a substantial loss to the claimant.

Your committee, therefore, recommend favorable consideration of the proposed legislation.

Appended hereto is the report of the War Department, together with other pertinent evidence, including claimant's affidavit, all of which is made a part of this report.

WAR DEPARTMENT,
Washington, March 6, 1943.

Hon. DAN R. McGEHEE,
*Chairman, Committee on Claims,
House of Representatives, Washington, D. C.*

DEAR MR. McGEHEE: Further reference is made to your letter of December 7, 1942, transmitting for report H. R. 7821 (77th Cong., 2d sess.), a bill for the relief of Farrell-Argast Electric Co.

The measure proposes to authorize and direct payment to the Farrell-Argast Electric Co., Indianapolis, Ind., of the sum of \$402.68, representing additional amount claimed, due to an error in bid under invitation for furnishing three transformers to the War Department.

Pursuant to invitation for bids sent to several contractors for furnishing electrical supplies required by the repairs and utilities office, Fort Hayes, Columbus, Ohio, the Farrell-Argast Electric Co. submitted a bid of \$67.113 for supplying three transformers under item 60, or a total of \$201.34. It appears that the price of \$201.34 quoted by the manufacturer to the Farrell-Argast Electric Co. was the unit price for one transformer instead of the lot price bid for the three transformers. Upon opening of the bids, prices on item 60 for each transformer were \$213.84, \$213.84, \$209.87, and \$67.113, the latter figure being the amount bid by the Farrell-Argast Electric Co. It will be noted that if payment is made of the additional amount of \$402.68, representing the difference between the bid price of \$201.34 for three transformers and the corrected price of \$604.02 at \$201.34 each, the Farrell-Argast Electric Co. would still be low bidder on this item.

Since the unit price of the claimant of \$67.113 is disproportionate to the other unit prices submitted, it is considered that a bona fide error in bid was made. This Department, accordingly, will not interpose any objection to the enactment of the measure.

The Bureau of the Budget advises that there is no objection to the submission of this report.

Sincerely yours,

HENRY L. STIMSON,
Secretary of War.

AN AFFIDAVIT SUPPORTING THE FACTS STATED IN BILL H. R. 560, INTRODUCED
IN THE HOUSE OF REPRESENTATIVES BY THE HONORABLE LOUIS LUDLOW

The latter part of February 1942, the Farrell-Argast Electric Co. of Indianapolis received from the post utilities office of Fort Benjamin Harrison a request to bid on a quantity of electrical material. Item No. 60 of this request called for three electric transformers of definite specifications.

Farrell-Argast Electric Co., being distributors of Kuhlman transformers, requested from Kuhlman Electric Co. through their Indianapolis representative, the Scott-Jaqua Co., Inc., a price on the transformers required.

On March 2, 1942, the Scott-Jaqua Co., Inc., quoted Farrell-Argast Electric Co. on three 25 kilovolt-ampere transformers for Fort Benjamin Harrison, as follows:

"Three 25-kilovolt-ampere Kuhlman Electric Co. transformers, CSP type, 60-cycle, single-phase, primary 2400/4160Y; secondary 120/240 volt complete with 20 gallons of oil and two hangers and equipped with two internal mounted Deion gaps, two pocket-type primary bushings, two hot line clamps, one TR breaker with operating handle and indicating lamp, one tank discharge gap.

"Price to quote \$201.34 freight allowed."

It was Scott-Jaqua Co.'s intention that this quotation of \$201.34 be interpreted as the price "each" although this is not definitely stated.

Farrell-Argast Electric Co., however, interpreted this quotation, as the total price to quote on the three transformers, or a net price each of \$67.113.

On March 9, 1942, Farrell-Argast Electric Co. submitted a bid on Q. M. 384-42-119U, Contractor Order 01-#2224U for Fort Benjamin Harrison, and on Item No. 60 calling for three 25-kilovolt-ampere transformers they bid \$67.113 each, with total price of \$201.34. The bids were opened on March 9, 1942, at 10 a. m., and it was found that the bid prices submitted by four different competitive bidders on Item No. 60 for each transformer were \$213.84, \$213.84, \$209.87, and \$67.113, the latter figure being the amount of the Farrell-Argast Electric Co. bid. The substantial difference between the Farrell-Argast Electric Co. bid and the next lowest bid of \$209.87 was noted by the contracting officer who contacted the Farrell-Argast Electric Co. by telephone for verification of the price it had bid and was informed that the unit price of \$67.113 was correct. It is to be especially noted that had Farrell-Argast Electric Co. quoted correctly, their price would have still been low, namely \$201.34 each, and Farrell-Argast Electric Co. would still have been awarded the contract.

Based on their bid as submitted, Farrell Argast Electric Co. was accordingly awarded the contract and given the order for the three Kuhlman transformers, at a net price each of \$67.113. These three Kuhlman transformers were promptly delivered to Fort Benjamin Harrison according to specifications and the post utilities office of Fort Benjamin Harrison was accordingly billed for the three transformers at a net price each of \$67.113 and Farrell Argast Electric Co. have accordingly been paid \$67.113 for each of these three transformers.

It is believed, however, the Government should pay a fair price for these transformers, and as the matter now stands Fort Benjamin Harrison has received and is using at this time two 25-kilovolt-ampere Kuhlman Electric Co. transformers for which the Government has never paid, and the cost of which at this date the Farrell Argast Electric Co. has had to assume in the amount of \$402.68 and for which they are petitioning relief.

In reimbursing Farrell Argast Electric Co. in the amount petitioned, Fort Benjamin Harrison would still receive the three transformers at a lower price than any competitive bid submitted on Item No. 60.

We, the undersigned, do hereby swear that the above is a true and accurate account of the facts relating to a bill introduced by the Honorable Louis Ludlow—H. R. 560.

FARRELL ARGAST ELECTRIC CO.,
THOMAS J. FARRELL, *President*.

Subscribed and sworn to before me this 17th day of March 1943.

[SEAL]

JOHN S. FORD, *Notary Public*.

My commission expires June 3, 1943.

SCOTT-JAQUA CO., INC.
CHARLES A. JAQUA, *President*.

Subscribed and sworn to before me this 18th day of March 1943.

[SEAL]

J. R. WETTIG, *Notary Public*.

My commission expires June 13, 1943.

THE SCOTT-JAQUA CO., INC.,
Indianapolis, Ind., September 30, 1942.

Hon. LOUIS LUDLOW,
House of Representatives, Washington, D. C.

DEAR MR. LUDLOW: We have your letter of September 28 and indeed appreciate your efforts to assist us in rectifying this error, and we regret that the Comptroller General is not willing to alter his original decision.

At no time have we questioned the legal basis for Mr. Lindsay C. Warren's decision, neither have we at any time felt that the officers at Fort Benjamin Harrison exercised bad faith or attempted to take advantage of anyone in connection with the placing of this business. As a matter of fact, we believe, these officers are to be particularly commended in their efforts to tell Farrell-Argast Electric Co. that there was something wrong with their bid on item 60, and it is regrettable, of course, that Farrell-Argast Electric Co. did not sense the situation and make a more thorough check on this item.

We feel that this is merely a matter of fairness and, as you stated at our conference, a matter of honesty, and the Government in reality is not entitled to receive these transformers at this low price.

The very fact that had Farrell-Argast Electric Co. quoted correctly, the price would have still been low and Farrell-Argast Electric Co. would have still been awarded the contract, seems to us should have a very decided influence on the decision of the Comptroller General and, in view of this notwithstanding the legal citations which he makes, there should be some means whereby the Government should pay a fair price for these transformers.

Had the price which Farrell-Argast should have quoted been higher than some of our competitors, we believe we would have no grounds whatever for a claim, but we do not feel that this is very important and in view of this that an adjustment should be made.

We will surely appreciate it if you will follow this up further with Mr. Warren or any others in authority that may have any influence on a decision, and see if it is not possible to reverse this decision on the basis as you have already stated "a matter of honesty."

Yours very truly,

THE SCOTT-JAQUA CO., INC.,
C. A. JAQUA, *President*.

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